

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAHEEM H. CARNEY,)
Plaintiff,)
v.) C.A. No. 06-23 Erie
RONALD SNYDER, et al,)
Defendants.)

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on February 6, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on July 10, 2006, recommended that Defendants' Motion to Dismiss and Strike the Amended Complaint (Doc. #10) be granted in part and denied in part. Specifically, that the motion to dismiss should be granted in that Plaintiff's HIPAA claim and his First Amendment claim for violation of privacy should be dismissed. Plaintiff's claim for violation of privacy may proceed under the Fourteenth Amendment. Plaintiff's retaliation claim should also survive as Defendants have not moved to dismiss this claim. Additionally, it recommended that the motion to strike should be denied as to Plaintiff's claim for monetary damages for emotional injuries and should be granted as to Plaintiff's claim for declaratory relief. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at SRCF at Mercer, where he is incarcerated, and on Defendants. No objections were filed. After de novo review of the pleadings and documents in the case, the following order is entered:

AND NOW, this / 4 ¹⁵ Day of August, 2006;

IT IS HEREBY ORDERED that the Defendants' motion to dismiss and strike the amended complaint [Document # 10] is GRANTED in part and DENIED in part. Specifically, the motion to dismiss is GRANTED in that Plaintiff's HIPAA claim and his First Amendment claim for violation of privacy is dismissed. Plaintiff's claim for violation of privacy may proceed under the Fourteenth Amendment. Plaintiff's retaliation claim also survives as Defendants have not moved to dismiss this claim. IT IS FURTHER ORDERED THAT the motion to strike is DENIED as to Plaintiff's claim for monetary damages for emotional injuries and is GRANTED as to Plaintiff's claim for declaratory relief.

The report and recommendation of Magistrate Judge Baxter, dated July 10, 2006, is adopted as the opinion of the court.



MAURICE B. COHILL, JR.
United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge
all parties of record _____